

Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matters of )

Deployment of Wireline Services Offering )  
Advanced Telecommunications Capability )

CC Docket No. 98-147

**PETITION FOR CONDITIONAL WAIVER**

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth"), hereby respectfully request the same conditional waiver from the 90-day collocation interval established by the Commission in its recent *Collocation Order*<sup>1</sup> that it granted Verizon and SBC in its November 7, 2000 *Order*.<sup>2</sup> For the reasons set forth below, the Commission should grant BellSouth's request.

1. The Commission released its *Collocation Order* on August 10, 2000. This *Order* established, *inter alia*, that in the absence of a state standard or an alternative standard agreed to by a requesting carrier and an incumbent local exchange carrier ("ILEC"), the ILEC must

<sup>1</sup> *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 98-147 and 96-98, *Order On Reconsideration and Second Further Notice Of Proposed Rulemaking In CC Docket No. 98-147 And Fifth Further Notice Of Proposed Rulemaking In CC Docket No. 96-98*, FCC 00-297, released August 10, 2000 ("Collocation Order").

<sup>2</sup> *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and Order (DA 00-2528), released November 7, 2000 ("Waiver Order").

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provide physical collocation on a 90-day interval.<sup>3</sup> On November 7, 2000, the Commission granted Verizon and SBC conditional waivers of certain aspects of the 90-day provisioning interval pending the Commission's action on petitions for reconsideration. Specifically, the *Waiver Order* permits Verizon and SBC, in states that have not set their own provisioning intervals, to follow the application processing and provisioning interval established by the New York Public Service Commission as modified in the *Waiver Order*.<sup>4</sup>

2. Currently, in the three BellSouth states that have not set a state provisioning interval standard pursuant to one of the methods set forth in the *Collocation Order*, the 90-day interval established in the *Collocation Order* will apply when BellSouth is negotiating collocation terms and conditions pursuant to 47 U.S.C. § 252(a). The 90-day interval will also apply when a telecommunications carrier with an existing agreement requests to modify that agreement to conform to the *Collocation Order* pursuant to the Change of Law provision within that interconnection agreement. BellSouth has determined that where it must adhere to the national

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<sup>3</sup> See *Collocation Order* ¶ 21. Paragraph 36 of the *Collocation Order* requires ILECs "to file with the state commission any amendments necessary to bring a tariff or SGAT into compliance with the national standards. At the time it files these amendments, the incumbent also must file its request, if any, that the state set intervals longer than the national standards as well as all supporting information." BellSouth understands this requirement to be applicable only where a state has failed to set its own interval "by statute, through an existing or future rulemaking order, by enforcing a state tariff, or by applying the precedent of a state arbitration decision." *Collocation Order* ¶ 22. Where the state has set its own interval, the state interval applies.

<sup>4</sup> The provisioning standards set by the New York Public Service Commission could result in a provisioning interval of up to 195 days for collocation arrangements that do not involve major construction or special applicant requirements. The *Waiver Order* found this aspect of the New York standard could unfairly disadvantage competitors and modified it with respect to the waivers that were granted. The *Waiver Order* allowed Verizon and SBC to increase the provisioning interval for a proposed physical collocation arrangement by no more than 60 calendar days in the event a competitive LEC fails to provide a timely and accurate forecast. ¶ 16. In addition, the *Waiver Order* made clear that collocation forecasts obtained from a  
(Footnote Continued)

provisioning interval, it cannot do so without preconditioning its premises. Realizing that not all premises can be preconditioned, BellSouth has attempted to identify premises that will likely have collocation demand in the next year based on recent activity. Additionally, BellSouth has asked telecommunications carriers to provide BellSouth with a two-year forecast of the targeted premises for collocation. The response, to date, has been insufficient to provide BellSouth with the data necessary to determine, with reasonable certainty, what premises should be prioritized for preconditioning. For this reason, BellSouth is concerned that its resources will be deployed ineffectively. The alternative collocation provisioning plan authorized in the *Waiver Order* would allow BellSouth to provision collocation arrangements within a time frame that has been determined to be an appropriate interval for promoting open competition in the local exchange market<sup>5</sup> and would prevent BellSouth from deploying resources inefficiently.

3. As noted in the *Waiver Order*, the Commission's goal in the *Collocation Order* was to ensure that physical collocation arrangements were made available on terms and conditions that are just, reasonable and nondiscriminatory. Thus, the *Collocation Order* established a national standard that would apply when a state has not determined an application processing and provisioning interval. Nevertheless, the *Waiver Order* recognizes that the petitions for reconsideration of the *Collocation Order* raise serious questions about whether a 90-day interval is reasonable. Without expressing any opinion on the merits of the pending petitions, the *Waiver Order* recognized that the record has greatly expanded since the *Collocation Order* was adopted

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competitive LEC may only be used for that carrier with reasonable and nondiscriminatory collocation arrangements.

<sup>5</sup> *Waiver Order* ¶14.

and as a result "countenances a moment of pause before we insist on absolute compliance with that *Order*."<sup>6</sup> The *Waiver Order* concluded that good cause existed to waive the 90-day interval required by the *Collocation Order* because:

Granting interim waivers will give the state commissions additional time to evaluate whether different intervals are more appropriate in their states, as contemplated in the *Collocation Reconsideration Order*.... We therefore conclude that the public interest would be best served by conditioning waiver on their commitments to meet reasonable alternative provisioning intervals.<sup>7</sup>

4. The same reasoning that led the Commission to grant Verizon and SBC a conditional waiver of the 90-day interval should apply equally to BellSouth's circumstance. BellSouth's waiver request should be treated in the same deliberate and balanced manner that led the Commission to allow Verizon and SBC to use an alternative provisioning interval that affords competitive LECs timely collocation but does not force Verizon or SBC to implement a national standard before consideration of the arguments that the standards are unreasonably short.

5. If the Commission grants BellSouth's waiver request, BellSouth will use the application processing and provisioning intervals established by the New York Public Service Commission and modified in the *Waiver Order* for all collocation requests that arise in the three states in which the state commission has not yet prescribed other intervals. Having determined

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<sup>6</sup> *Id.* ¶10.

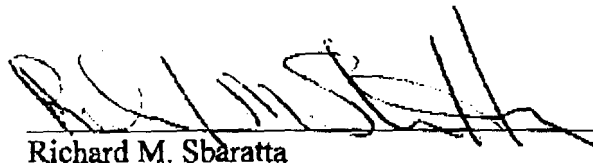
<sup>7</sup> *Id.* ¶ 11-12.

that such provisioning intervals serve the public interest and that good cause exists for waiver,  
the Commission should grant BellSouth's request.

Respectfully submitted,

BELLSOUTH CORPORTION  
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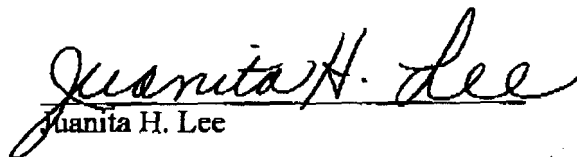
Date: December 1, 2000

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 1<sup>st</sup> day of December 2000 served the following parties to this action with a copy of the foregoing **PETITION FOR CONDITIONAL WAIVER** by hand delivery or placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

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Juanita H. Lee

\* **VIA HAND DELIVERY**